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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003053

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SUBJECT: VICE PRESIDENT HASHIMI CONSIDERS COMPROMISE ON  
ELECTION LAW

REF: A. BAGHDAD 3045

IB. BAGHDAD 3011

Classified By: Political Counselor Yuri Kim for Reasons 1.4 (b, d)

¶11. (C) SUMMARY: After meeting with Speaker Samarraie and consulting other key political leaders, the Ambassador met with Vice President Tariq al-Hashimi to discuss a possible way forward in the wake of the vice president's veto of the election law. Appearing reluctant to compromise, Hashimi complained that the proposed technical fix in response to the veto did not provide enough seats in the Council of Representatives (COR) for expatriates, but told the Ambassador he would study the proposal overnight. The Ambassador emphasized the importance of not/not opening the text of the election law to renegotiation and of holding elections on time in January. The Turkish Ambassador agreed to press Hashimi and other Sunnis to accept the technical fix, as inside the COR, angry Shia MPs showed little appetite to give way to Hashimi, calling instead for "vetoing the veto." Kurdish MPs were more willing to consider an amendment, but signaled they would likely attempt to change the law's provision controlling the distribution of seats to Iraq's governorates. In a surprise move, the head of the COR Legal Committee announced that the Iraqi Federal Supreme Court had issued an advisory opinion at the request of the two COR Deputy Speakers which, he claimed, stated that Hashimi's veto had no legal basis. Embassy will continue to promote the technical compromise to key interlocutors in an effort to close a deal. END SUMMARY.

COORDINATING WITH THE SPEAKER

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¶12. (C) The Ambassador met with COR Speaker Ayad al-Samarraie the morning of November 19 to discuss the way forward in responding to VP Hashimi's veto of the election law amendments the previous day (ref A). Samarraie remarked that Hashimi had become less cooperative with the COR in recent months and said he believed Hashimi was clearly putting his own political ambitions ahead of his duties as vice president. In addition to discussing the possibility of a technical solution, the Ambassador reminded Samarraie that any move to further amend the law would be subject to Article 138 (Fifth B) of the Iraqi constitution which restricted debate and action to only those issues directly raised in the veto. Samarraie stated that he fully agreed with the Ambassador's interpretation of Article 138 and that he was using it to prevent widening the scope of debate. The Ambassador underscored that we supported a technical (i.e., non-legislative) fix to address Hashimi's concerns. The Ambassador also discussed with Samarraie possible language that might be used in the event a technical fix became untenable. The two agreed it would be critical to keep any legislative amendment narrowly focused on the language to which Hashimi had objected.

SHIA ANGER AT THE COR

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¶13. (C) At the COR, MPs continued to react to Hashimi's veto. With the Kurdish parliamentary delegation holed up awaiting instructions from Erbil and other politicians busily conferring with each other, Samarraie failed to corral bloc leaders together to chart a course ahead. Shia political party leaders were incensed with Hashimi and inclined to disregard his requests for legislative action. Hadi al-Ameri, leader of the Badr Organization, told Poloff, "We reject Hashimi's objections and will send this back to the Presidency Council." Ali al-Adeeb, Da'wa party bloc leader, argued to Poloff that Hashimi's veto was not constitutionally valid and that the COR should accordingly ignore or override the veto.

¶14. (C) Kurdish contacts showed more of an appetite to further amend the law than their Shia counterparts. Their primary motivation, however, was the prospect of changing the provisions of Article 1 of the November 8 amendments to effect an increase in the number of COR seats allotted to Kurdish provinces. (Note: As currently amended, Article 1 of the election law amendments mandates the use of current Ministry of Trade population statistics to determine the allocation of seats to Iraqi governorates. As unveiled several days ago by the Independent High Electoral Commission (IHEC), this will result in a smaller percentage of Kurdish-controlled seats in the next COR compared to the current parliament. End Note.)

#### A SURPRISE DEVELOPMENT

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BAGHDAD 00003053 002 OF 002

¶15. (C) Not long after convening the COR session, Speaker Samarraie announced that the election law would not be put on the agenda for discussion until the following day. In a surprise move, COR Legal Chairman Baha al-Araji (Sadrists) then stood up and announced that he had an advisory opinion from the Federal Supreme Court (FSC) which, he claimed, proved that Hashimi's veto was illegal. Samarraie was taken completely off guard and quickly asked who had authorized a request for the ruling. Al-Araji responded that the two Deputy COR Speakers, Khalid Attiya (Shia independent) and Arif Tayfour (KDP), had agreed to the request while Samarraie was out of town; both Attiya and Tayfour somewhat sheepishly indicated this was true. Some Sunni MPs, led by hardliner Saleh al-Mutlaq (Iraqi National Movement), began shouting in response and the session grew more chaotic. Finally, Samarraie ended the session only 45 minutes after it began. The COR will next convene on Saturday, November 21. (Note: Embassy has confirmed the existence of the FSC opinion and is working to obtain a copy. Some initial reports indicate that the opinion does not declare the veto unconstitutional, but rather may weigh in on IHEC's authority to determine out-of-country voter demographics. End Note.)

#### SELLING A COMPROMISE

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¶16. (C) In close consultation with UNAMI, Embassy has worked to refine a non-legislative technical fix that directly addresses Hashimi's stated goal of allocating COR seats to expatriate voters. Under the election law as currently amended, IHEC used the &remainder method<sup>8</sup> to distribute seats across governorates for the next COR, which is based on the remaining fraction of 100,000 persons per province. (Note: The constitution requires one COR seat for every 100,000 Iraqis. End Note.) For example, if a governorate had 480,000 inhabitants, it would receive five seats, rather than four, because the 80,000 in excess of 400,000 was a high enough number for it to be awarded an additional "remainder seat." Under this process, a total of nine remainder seats were allocated to the provinces that had a population nearest to the next 100,000 mark according to the Ministry of Trade

statistics. In the proposed technical fix, IHEC would set aside these nine seats as &overseas reserve seats<sup>8</sup> (rather than allocate them to governorates) and then distribute them proportionally among the parties winning the highest number of overseas votes.

¶7. (C) Armed with this proposal, the Ambassador met with Hashimi the afternoon of November 19. The Ambassador noted the volatile and tense political atmosphere that had arisen following the veto announcement and stressed the importance of finding a prompt solution to the situation. The Ambassador also highlighted that the technical fix was a significant step forward in the equitable treatment of out-of-country voters and was the best possible outcome that the VP could hope for without a potentially lengthy and problematic effort in the COR to further amend the election law. Hashimi responded that there were approximately four million Iraqis living abroad, which should translate into 40 COR seats under the Iraqi constitution rather than nine. He complained that the proposed technical fix was &merely about numbers,<sup>8</sup> whereas his duty was to preserve the ratio enshrined in the constitution. That said, Hashimi ended the meeting by stating, "Message received."

¶8. (C) In a follow-up discussion with Poloff shortly following Hashimi's meeting with the Ambassador, Hashimi's Director General, Krikor Der-Hagopian, sounded a more positive note. Krikor asked that the Ambassador withhold judgment on Hashimi's reaction to the technical fix and allow the VP more time to digest it. He also requested that the Embassy engage former PM Iyad Allawi and MP Saleh al-Mutlaq (the senior figures in the Iraq National Movement coalition, of which Hashimi is a part) regarding the proposal. The Turkish Ambassador told the Ambassador that he would be meeting Hashimi again the following morning to press him to see the merit of accepting half a loaf while he had the chance.

¶9. (C) COMMENT: Embassy will call on key officials and interlocutors to further promote the technical compromise while Hashimi considers the proposal. The Ambassador will continue to engage the range of political actors to prevail upon Hashimi to take a deal that will enable him to declare righteous victory, make moot designs to widen the scope of changes to the law, and enable the elections to get back on track. END COMMENT.

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